

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	: CRIMINAL NO. 1:15-CR-153
	:	
v.	:	: (Chief Judge Conner)
	:	
WILSON HERRERA,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 18th day of October, 2016, upon consideration of the motion (Doc. 453) for modification or reduction of sentence pursuant to 18 U.S.C. § 3582(c) filed by counsel for defendant Wilson Herrera (“Herrera”), wherein Herrera asks the court to reconsider its determination that Herrera is ineligible for application of the safety valve provision of the United States Sentencing Guidelines, see U.S.S.G. § 5C1.2, modify the sentence imposed on September 28, 2016, and reduce his term of imprisonment below the statutory mandatory minimum sentence of 120 months, (Doc. 453 ¶¶ 3-6), and wherein counsel specifically cites to 18 U.S.C. § 3582(c)(1)(A) in support of said request, but the court observing that § 3582(c)(1)(A) applies only to requests for modification or reduction made by the Director of the Bureau of Prisons, 18 U.S.C. § 3582(c)(1)(A), rendering that section inapplicable *sub judice*, and the court further observing that the balance of § 3582(c) does not support the requested reduction, as this case does not concern a retroactive amendment to the applicable Sentencing Guidelines, see 18 U.S.C. § 3582(c)(2), nor does it implicate a modification “otherwise expressly permitted by statute or by Rule 35 of the Federal

Rules of Criminal Procedure,” the latter of which authorizes corrections to account for “arithmetical, technical, or other clear error” and post-sentencing motions *by the government* to reduce a defendant’s sentence for substantial assistance, see 18 U.S.C. § 3582(c)(1)(B) (incorporating FED. R. CRIM. P. 35(a)-(b)), and the court thus concluding that Herrera’s instant request is without merit, it is hereby ORDERED that Herrera’s motion (Doc. 453) for modification or reduction of sentence pursuant to 18 U.S.C. § 3582(c) is DENIED.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania